

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT WESLEY TAYLOR II,

Plaintiff,

CIVIL ACTION NO. 07-CV-12723-DT

vs.

DISTRICT JUDGE DENISE PAGE HOOD

DETROIT, CITY OF,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendant.

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**OPINION AND ORDER DENYING PLAINTIFF'S SECOND MOTION
FOR DISCOVERY**

This matter comes before the Court on Plaintiff's second discovery motion. On October 30, 2007 Plaintiff filed his "Motion for Discovery Under FRCP No. 34." (Docket no. 19). Defendant City of Detroit did not file a written response. The Court heard oral argument on the motion on November 28, 2007. The matter has been referred to the undersigned for decision under 28 U.S.C. § 636(b)(1)(A). (Docket no. 21). The motion is now ready for ruling.

Plaintiff is proceeding *pro se*. He filed this action against the City of Detroit alleging a violation of his constitutional rights because he has been ticketed for having an abandoned vehicle on his property. (Docket no. 1). In the present Motion Plaintiff asks the City to produce certain documents. Plaintiff's Motion sets out the discovery questions and states that he submitted a discovery request to the City on October 11, 2007. Plaintiff failed to attach to his Motion a copy of the discovery request served on the City, however. Plaintiff also failed to attach a copy of any Response served by the City.

During oral argument counsel for Defendant showed the Court the Response the City made to Plaintiff's Request for the Production of Documents. The Proof of Service on the City's Response shows that it was served on November 7, 2007. Defendant's counsel stated that Plaintiff served his

Request for Production on the City on October 10, 2007, one day earlier than Plaintiff says that he served his Request on the City.

Under Fed. R. Civ. P. 34(b), Defendant is allowed 30 days after the service of the discovery request to serve its Response. The City's Response served on November 7 was therefore timely under Rule 34. Plaintiff's Motion for Discovery, construed as a motion to compel, was filed prematurely on October 30. Plaintiff's Motion for Discovery will therefore be denied.

Notwithstanding this denial, the Court during oral argument assisted Plaintiff in modifying his requests, and Defendant's counsel agreed to respond to these reformulated requests within 21 days. Defendant's counsel will therefore on or before December 20, 2007 notify Plaintiff if it has any documents responsive to Plaintiff's requests as modified at the hearing. Plaintiff will be given the option of viewing these documents to determine if he wishes to copy them.

Accordingly, Plaintiff's Motion is denied but the parties have agreed on a method by which Defendant will respond to Plaintiff's discovery requests which are the subject of this Motion.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Discovery Under FRCP No. 34 (docket no. 19) is **DENIED**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: November 29, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this order was served upon counsel of record on this date.

Dated: November 29, 2007

s/ Lisa C. Bartlett
Courtroom Deputy